

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
GALVESTON DIVISION**

CELEDONIO RUBIO, §  
§  
Plaintiff, §  
§  
v. § CIVIL ACTION NO. G-07-0220  
§  
§  
DIHN NGUYEN, *doing business as* §  
*St. Lucas,* §  
§  
Defendant. §

**ORDER**

The plaintiff, Celedonio Rubio, has filed a motion to dismiss without prejudice. The defendant, Dinh Nguyen, has moved to dismiss with prejudice.

This suit arises out of Rubio's allegation that on December 15, 2006, he was injured while working as a crewman on a shrimp boat owned by Nguyen. The defendant, Nguyen, denies that the plaintiff was in fact working as a crewman on the defendant's boat on the date at issue.

The plaintiff's motion to dismiss without prejudice is denied, based on the age of this case and the fact that the plaintiff previously moved to dismiss without prejudice, then reinstated the case.

The defendant's motion to dismiss with prejudice based on the plaintiff's failure to comply with discovery is also denied at this time. However, the court orders that the

following steps take place in advance of a status conference that is set for **August 8, 2008, at 10:00 a.m.** in Courtroom 11-B

1. The defendant may depose the plaintiff, at a time and date mutually arranged, no later than July 25, 2008.
2. The plaintiff asserts that he has reason to believe the Andrew Nguyen is still employed by the defendant and refuses to give a statement. The plaintiff does not explain why he has not sought to compel Andrew Nguyen's testimony through subpoena. The plaintiff has until August 1, 2008, to obtain discovery from Andrew Nguyen and from Guadalupe Hernandez, coworkers of the plaintiff.
3. The defendant must produce documents that he claims shows the absence of plaintiff as a crewman on December 15, 2006, no later than July 25, 2008.

SIGNED on July 1, 2008, at Houston, Texas.



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Lee H. Rosenthal  
United States District Judge